

REMARKS

Claims 1, 2 and 8-12 are pending in this application. After claim cancelations herein, claims 1 and 2 will remain in this application.

In the Office Action dated July 19, 2005, the Examiner indicated that claims 1, 2 and 8-12 comprise six (6) distinct inventions, and the Examiner has required that the application be restricted, under 35 U.S.C. § 121, to one of the following:

- I. Claims 1 and 2, drawn to a nucleic sequence encoding SEQ ID NO: 1 or the complement thereof;
- II. Claim 8, drawn to a nucleotide sequence encoding NIa-Pro (SEQ ID NOs: 3 and 4);
- III. Claims 9 and 10, drawn to a nucleotide sequence encoding the P1 protein (nucleotides 136-1575 of SEQ ID NO: 1);
- IV. Claims 11 and 12, drawn to a nucleotide sequence of the capsid coding region (nucleotides 9064-9945 of SEQ ID NO:1);
- V. Claims 11 and 12, drawn to a nucleotide sequence of the HC-Pro coding region (nucleotides 1576-2946 of SEQ ID NO:1);
- VI. Claims 11 and 12, drawn to a nucleotide sequence of Nib (nucleotides 7501-9063 of SEQ ID NO.: 1).

According to the Examiner, the inventions of groups I – VI are unrelated because they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects. Group I, drawn to a nucleotide sequence encoding SEQ ID NO.: 1, which corresponds to the full-length genomic nucleotide sequence of the Papaya Leaf-Distortion Mosaic Virus, is patentably distinct from groups II-VI because it can generate virus particles. Groups II-VI are drawn to different portions of group I, and none of the products of groups II-VI can generate virus particles. Each of these groups is patentably distinct from each other and from group I because each sequence has a unique sequence structure, due to which each encodes a different protein. Therefore, according to the Examiner, each of the nucleotide

sequences of Groups I-VI has a different function because they encode different products, i.e., the PLDMV virus genome, NIa-Pro, P1, capsid, HC-Pro and Nib, respectively.

In response, Applicants provisionally elect Group I, consisting of claims 1 and 2, drawn to nucleic sequence encoding SEQ ID NO: 1 or the complement thereof. Accordingly, Applicants have canceled claims 8-12. In addition, Applicants note that the inventorship for the elected Group I remains unchanged.

However, this election is made with traverse because Applicants believe that claim 8 should be examined along with claims 1 and 2. Claim 8 as originally presented was dependent upon original claim 7 and was included by the Examiner within the Group I invention in the United States Patent and Trademark Office's restriction requirement of May 23, 2005. Applicants, in response to that restriction requirement, elected Group I and amended claim 8 to incorporate the limitations of base claim 7. Now, in a further restriction requirement, the Examiner contends that claim 8 is a distinct invention from claims 1 and 2 after all. Applicants respectfully request that the Examiner reconsider the new claims grouping and include claim 8 along with the claims 1 and 2 (and reinstate claim 8, which is canceled herein).

Reconsideration of the present application, as amended, is respectfully requested. If the Examiner has any questions or concerns regarding this response and amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number set forth below.

Respectfully submitted,

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